

REMARKS

Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 3-5, 8-15, 21, and 22 stand withdrawn. Claims 5-7, 13, 14, and 17 have been amended for clarity and to overcome the rejections under 35 USC §112, second paragraph.

Claims 1, 2, 19, and 20 stand rejected, under 35 USC §103(a), as being unpatentable over Miller (US 3,682,558) in view of Nadai (US 3,393,963). Claim 6 was rejected, under 35 USC §103(a), as being unpatentable over Miller and Nadai in view of Bell et al. (US 4,319,852). Claim 7 was rejected, under 35 USC §103(a), as being unpatentable over Miller and Nadai in view of Lee (US 6,805,510). Claims 16-18 were rejected, under 35 USC §103(a), as being unpatentable over Miller and Nadai in view of Weihrauch (US 6,685,376).

The Applicant respectfully traverses these rejections based on the following remarks.

Although Miller discloses a powder dispenser with a porous foam tip 26, Miller does not disclose that the tip comprises a storage means including a very open foam pad, as recited in claim 1. More specifically, Miller does not disclose a foam pad comprising large diameter pores communicating freely which each other (see specification page 3, lines 28-29) so as to allow a

large quantity of powder to be stored in the pad (see page 5, line 10).

Miller's grid 30, which is spaced way from tip 26, cannot be considered as any kind of storage means. The function of this grid is to prevent caking of powder (see Miller col. 3, lines 15-40).

Therefore, the feature recited in claim 1 of a storage means including a very open foam pad distinguishes claim 1 over Miller, and no information can be found about such storage means in Nadai. For this reason, claim 1 is patentable over the teachings of Miller and Nadai.

Additionally, Miller does not disclose a porous membrane tensioned over the reservoir, as recited in claim 1. Applicant's specification describes the membrane as a foam that is much less open than the foam forming the pad (specification page 3, lines 34-35). As a result, the membrane is adapted to be tapped gently to cause powder to exit the pad and to migrate through the membrane onto the skin. Therefore, the porous membrane, which allows both control of the flow of powder exiting from the reservoir pad and gentle contact with the skin, is another feature which distinguishes claim 1 over Miller and Nadai.

Moreover, those skilled in the art concerned with finding a means to control the flow of powder exiting from a reservoir pad

and to insure gentle contact with the skin would not consider Nadai because:

- the device disclosed by Nadai is a liquid dispenser and not a powder dispenser;
- Nadai does not disclose that the device, and in particular that screen 10 covering foam pad 7, is adapted for application on skin; and
- Nadai mentions that screen 10 (and not porous membrane 8, as indicated in the Office Action) is used for protecting foam pad 7 against abrasion, which is not at all the concern of the invention defined by claim 1.

In accordance with the above remarks, the Applicant respectfully submits that the teachings of Miller and Nadai, considered alone or in combination, do not teach or suggest the subject matter defined by claim 1. Bell et al., Lee and Weihrauch have been cited against dependent claims and do not cure the above-noted deficiencies of Miller and Nadai. Therefore, allowance of claim 1 and all claims dependent therefrom is warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



James E. Ledbetter
Registration No. 28,732

Date: August 3, 2005
JEL/DWW/att

Attorney Docket No. L741.03111
STEVENS DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, N.W., Suite 850
P.O. Box 34387
Washington, D.C. 20043-4387
Telephone: (202) 785-0100
Facsimile: (202) 408-5200